

REMARKS:

Claims 1-12 and 15-19 are in the case and presented for consideration.

Claim Rejection Under 35 U.S.C. § 112

Claims 1-12 and 15-19 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as her invention. More specifically, it is asserted that the limitation "'through-passage-free porous substrate' is unclear because a substrate that is porous will necessarily have 'through-passages.'" This rejection is traversed because, it is submitted, a claim is not indefinite merely because a phrase appears in a claim that is necessarily present in another phrase of the claim. Nevertheless, independent claims 1 and 12 have been amended and the rejection is now believed to be obviated.

First Rejection Under 35 U.S.C. § 103(a)

Claims 1-8, 11-12, 14, 17 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Poeppel et al. (US 4,476,196) in view of McPheeters (US 5,330,859). The reasons for the rejection of these claims are stated at pages 3 to 6 of the Office Action.

Applicant respectfully traverses the rejection of claims 1-8, 11-12, 14, 17 and 19. Claims 1 and 12 have been amended to still further distinguish over the cited prior art and it is therefore submitted that, for the following reasons, independent claims 1 and 12, are patentable over Poeppel et al. and McPheeters. Claims 2-8 and 11 depend from claim 1, and claims 14, 17 and 19 depend from claim 12, and therefore these claims are also allowable.

Amended claims 1 and 12 recite that the fuel gas or air can pass directly to the first electrode member without passage through any other gas flow path. It is respectfully submitted that the combination of Poeppel et al. and McPheeters, even if such a combination were proper, would not teach the claimed feature.

Poeppel et al. teach using structure within the fuel cell core as the pathways for carrying fuel and oxidant gases across the core (see Poeppel, column 4, lines 7-9). According to Poeppel et al., the fuel or oxidant can only enter and leave the fuel cell core through certain defined passageways. See Poeppel et al., column 6, lines 28-31, indicating that the fuel/air distributing chambers, or manifolds 18 and 19, located on either side of the fuel cell core, "communicate with one another via passageways 13 formed in the core 11." See also, Fig. 2 of Poeppel et al. Thus, Poeppel et al. does not disclose a fuel cell in which the fuel gas or air can pass directly without passage through any other gas flow path.

McPheeters teaches a discrete fuel channel 24 which is defined by interconnects 22, 26 and electrode 12 (see col. 3, lines 25-36 and Fig. 4). The fuel gas passes through fuel channel 24 before being supplied to fuel electrode 12. Thus, the fuel gas of McPheeters does not pass directly to the first electrode member without passage through any other flow path, as recited in the claims.

Therefore, even assuming arguendo, that Poeppel et al. and McPheeters may be properly combined, that combination would not render claims 1-8, 11-12, 14, 17 and 19 unpatentable because such a combination would not teach the claimed subject matter, i.e., that the fuel gas passes directly to the first electrode member without passage through any other gas flow path.

Second Rejection Under 35 U.S.C. § 103(a)

Claims 9, 15, 16 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Poeppel et al. (US 4,476,196) in view of McPheeters (US 5,330,859), as applied to claim 5, and further in view of Ketcham et al. (US 6,045,935). The reasons for the rejection of these claims are stated at pages 7 and 8 of the Office Action.

Applicant respectfully traverses claims 9, 15, 16 and 18, each of which depend from claim 1. As discussed above with respect to the rejection of claim 1, the combination of Poeppel et al. and McPheeters, even if properly combined, does not teach the claimed passage of fuel gas directly to the first electrode member without passage through any other gas flow path. Ketcham et al. does not disclose this feature and therefore even assuming arguendo, that Poeppel et al, McPheeters and Ketcham at el. may be properly combined, that combination would not render claims 9, 15, 16 and 18 unpatentable. Accordingly, it is respectfully submitted that claims 9, 15, 16 and 18 are patentable over the cited prior art.

Third Rejection Under 35 U.S.C. § 103(a)

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Poeppel et al. (US 4,476.196) in view of Ketcham et al. (US 6,045,935) and McPheeters (US 5,330,859) as applied to claim 9, and as evidenced by Morgan Advanced Ceramics Datasheet for Glass Ceramic. The reasons for the rejection of this claim is stated at page 9 of the Office Action.

Applicant respectfully traverses the rejection of claims 10, which depends from claim 9. For the reasons discussed above, with respect to the rejection of claim 9, the

combination of Poeppel et al., McPheeters and Ketcham et al., does not teach the claimed passage of fuel gas directly to the first electrode member without passage through any other gas flow path. The Morgan Advanced Ceramics Datasheet does not disclose this feature and therefore, even assuming arguendo, that Poeppel et al., McPheeter, Ketcham et al. and the Morgan Advanced Ceramics Datasheet may be properly combined, that combination would not render claim 10 unpatentable. Accordingly, it is respectfully submitted that claim 10 is patentable over the cited prior art.

Applicant has endeavored to make the foregoing response sufficiently complete to permit prompt, favorable action on the subject patent application. In the event that the Examiner believes, after consideration of this response, that the prosecution of the subject patent application would be expedited by an interview with an authorized representative of the Applicant; the Examiner is invited to contact the undersigned at (845) 359-7700.

By this amendment, the application and claims are believed to be in condition for allowance and favorable action is respectfully requested.

Respectfully submitted,

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